IN THE

Supreme Court of the United States

October Term 1948

No. 42

AUGUST KLAPPROTT, *Petitioner*

vs.

UNITED STATES OF AMERICA

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

MOTION TO STAY MANDATE AND FOR CLARIFICATION OF MODIFIED JUDGMENT ENTERED APRIL 4, 1949

On April 4, 1949 this Honorable Court modified the judgment heretofore entered on January 17, 1949, and which modification reads as follows: "The judgment of the Court of Appeals is reversed and the cause is remanded to the District Court with directions to receive evidence on the truth or falsity of the allegations contained in petitioner's petition to vacate the default judgment entered in the denaturalization proceedings."

Petitioner respectfully requests that the Court clarify the language of the modified judgment.

Petitioner believes the purpose of the modified judgment is to make proof of the allegations contained in the petition and affidavit filed in the District Court (App. 7-15) as to the reasons why he failed to appear and defend himself in the denaturalization proceedings, as a condition precedent to a trial on the merits. However, petitioner respectfully submits that the language of the Court's modified judgment goes far beyond that. In petitioner's petition which was filed to vacate the default judgment there is contained therein numerous allegations answering the charges in the complaint and other statements which have no bearing on petitioner's inability to have appeared and defended himself in the denaturalization proceedings and the burden of proof of the truth or falsity of such allegations should be upon the Government at the time of trial of the case on the merits.

Therefore, petitioner respectfully requests that the Court stay the mandate and clarify its modified judgment by limiting the evidence to be received by the District Court as to the truth or the falsity of petitioner's allegations only as to the reasons why he was unable to appear and defend himself in the denaturalization proceedings, and as to matters that transpired during his period of confinement.

Respectfully submitted,

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